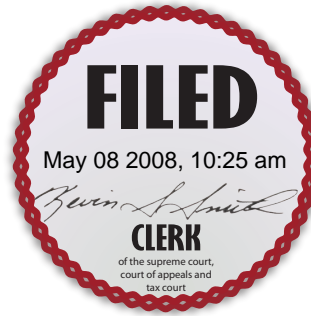


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

**GREGORY C. BLACK**  
Louisville, Kentucky

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**IN THE  
COURT OF APPEALS OF INDIANA**

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C.L.,	)	
Appellant-Respondent,	)	
	)	
vs.	)	No. 10A01-0712-JV-596
	)	
R.F.,	)	
Appellee-Petitioner.	)	

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APPEAL FROM THE CLARK CIRCUIT COURT  
The Honorable Daniel F. Donahue, Judge  
Cause No. 10C01-0201-JP-3

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**May 8, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BRADFORD, Judge**

Appellant-Respondent C.L. (“Mother”) appeals from the trial court’s order granting a petition by Appellee-Petitioner R.F. (“Father”) to dismiss all pending motions. Specifically, Mother contends that the trial court abused its discretion by denying her right to respond to Father’s motion to dismiss and by approving, entering, and subsequently refusing to set aside an allegedly unauthorized agreed order. Mother further contends that the trial court’s alleged abuse of discretion violated her Federal and Indiana constitutional rights. Concluding that the trial court erred by granting Father’s motion to dismiss without first conducting a hearing on the matter, we reverse and remand for further proceedings.

### **FACTS AND PROCEDURAL HISTORY**

Mother’s child N.L.L-F (“minor child”) was born on January 22 2002. On June 12, 2002, the trial court determined that Father was the minor child’s father. On March 31, 2006, Mother and Father filed an agreed order establishing that they would have joint custody of the minor child. The agreed order also outlined Father’s visitation with the minor child.

During February through September 2007, the parties filed a number of motions regarding visitation and the care of their minor child. The trial court set each of these motions for a hearing. As of October 2007, some of these motions had been disposed of, while others remained pending. On October 23, 2007, Father filed a motion requesting that the trial court dismiss all pending motions. Father’s motion alleged that because the parties were cooperating, further litigation would be futile. On October 24, 2007, the trial

court granted Father's motion, and entered an order dismissing all pending motions and vacating the upcoming scheduled hearing in the matter. This appeal follows.

### **DISCUSSION AND DECISION**

We first note that our disposition of the issue has been made more difficult by the fact that Father did not file an appellee's brief. We do not undertake the burden of developing arguments for the appellee, as that duty remains with the appellee. *In re Paternity of M.M.B.*, 877 N.E.2d 1239, 1242 (Ind. Ct. App. 2007). In such cases, Indiana courts have long applied a less stringent standard of review and may reverse the trial court when the appellant establishes *prima facie* error. *Id.* In this context, "*prima facie*" means "at first sight, on first appearance, or on the face of it." *Johnson County Rural Elec. Membership Corp. v. Burnell*, 484 N.E.2d 989, 991 (Ind. Ct. App. 1985). Likewise, the statement of facts contained in Mother's brief is deemed by us to be accurate and sufficient for the disposition of this appeal. *Id.*

Where, as here, the trial court has adopted local court rules, the trial court is bound by such rules. *See Cavazzi v. Cavazzi*, 597 N.E.2d 1289, 1292 (Ind. Ct. App. 1992). Indiana Trial Rule 81 establishes that courts may regulate local court practice by adopting local rules so long as said rules are not inconsistent with and not duplicative of the Indiana Rules of Trial Procedure or others Rules of the Indiana Supreme Court. Ind. Trial Rule 81. Here, Clark Circuit and Superior Courts Local Rule 10 establishes that all motions shall be set for a hearing at the time of the filing of the motion. The trial court, however, failed to comply with Local Rule 10 when it granted Father's motion to dismiss all pending motions without first conducting a hearing on the matter. We hereby reverse

the trial court's order granting Father's motion to dismiss all pending motions and remand for a hearing on the matter pursuant to Local Rule 10. Having concluded that the trial court erred by failing to conduct a hearing on Father's motion to dismiss, we need not consider Mother's remaining claims.

The judgment of the juvenile court is reversed and remanded for further proceedings.

BARNES, J., and CRONE, J., concur.